S.B.Criminal Revision Petition No.993/2007

Bahadar Ram @ Bhadar Ram & Ors.
v.
State of Rajasthan

Date of Order :: 25th October, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. G.R.Punia, for the petitioners.
Mr. Vishnu Kachhawaha, Public Prosecutor.

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By way of this revision petition under Section 397 read with 401 Cr.P.C. the petitioners seek to challenge the order dated 22.8.2007 passed by learned Judicial Magistrate, Ist Class, Ghadsana District Sriganganagar in Cr.Misc.Case No.281/2003, State v. Bhadar Ram & Ors. By the order aforesaid learned Judicial Magistrate rejected an application preferred by the petitioners under Section 468 Cr.P.C.

From the facts averred in the petition and also in the order impugned dated 22.8.2007 it appears that at the instance of Ramnarain son of Manphool Ram a first information report bearing No.554/2001 was registered at Police Station, Ghadsana on 11.12.2001 contemplating offences under Sections 447, 323, 341 and 143 IPC read with Section 27 of Arms Act so also under Section 3 of the SC/ST (Prevention of Atrocities) Act, 1989. The investigating agency after regular investigation submitted a final negative

report on 31.12.2001 whereupon on notice the complainant appeared before the court on 22.2.2002 and submitted a protest petition on 9.4.2002. The cognizance thereafter was taken on 4.6.2003. A revision petition against the order taking cognizance was preferred by the petitioners before Additional Sessions Judge, Anoopgarh that came to be rejected on 7.6.2005. The petitioners then filed an application under Section 468 Cr.P.C. before learned Magistrate stating that no cognizance could have been taken beyond limitation prescribed under Section 468 Cr.P.C. The application stood rejected by order impugned.

It is contended by learned counsel that alleged incident is of 11.12.2001 and the cognizance was taken on 4.6.2003 i.e. subsequent to limitation prescribed for taking cognizance under Section 468 Cr.P.C. Looking to maximum term of punishment prescribed for offences under Sections 323, 341 and 143 IPC the cognizance could have been taken within a period of one year. However, in the instant matter admittedly cognizance was taken subsequent thereto. The only reason given by the court of Judicial Magistrate, Ghadsana is that a protest petition was filed by the complainant and, therefore, the delay was caused due to that is of no consequence as the provisions of Sections 467 and 468 Cr.P.C. nowhere prescribes any exception for extending limitation on the count of filing protest petition.

Thus, this revision petition deserves acceptance. The same, therefore, is allowed. The order impugned dated 22.8.2007 passed by learned Judicial Magistrate, Ghadsana is hereby quashed. The application preferred under Section 468 Cr.P.C. by the petitioners is accepted and the cognizance of the offences under Sections 341 and 323 IPC taken against the petitioners on 4.6.2003 is quashed.

(GOVIND MATHUR),J.

Kkm/ps.